IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Bail Appl..No. 3874 of 2007()

CRIME NO.242/07 OF TRITHALA POLICE STATION

PETITIONERS : APPLICANTS/ACCUSED:

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1. ALI, AGED 30,
S/O. LATE KUNHU, PERINGATTUTHODIYIL HOUSE,
VELLALOOR DESOM, OTTAPPALAM TALUK, PALAKKAD.

2. KUNHAMA @ KHADEEJA, AGED 58 YEARS,
W/O. LATE KUNHU, PERINGATTUTHODIYIL HOUSE,
VELLALOOR DESOM, OTTAPPALAM TALUK.

BY ADV. SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY S.I. OF POLICE, TRITHALA POLICE STATION),
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 3874 OF 2007

Dated this the 25th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations of matrimonial cruelty under Sec.498A of the IPC. They are the husband and the mother-in-law of the de facto complainant. A crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the marriage has been dissolved and an agreement has been entered into. All liabilities have been discharged. The proceedings have been vexatiously initiated against the petitioners. The learned Public Prosecutor was directed to take instructions. The learned Public Prosecutor submits that, as per the instructions given, there was a settlement; but the amounts due have not been paid.

2. Be that as it may, coming to the question of

anticipatory bail, it is conceded that there is no allegation of having caused any physical injury as such to the de facto complainant.

3. The learned counsel for the petitioners prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that directions can be issued under Sec.438 of the Cr.P.C. in favour of the petitioners subject, of course, to conditions which shall adequately ensure the interests of a fair, efficient and expeditious investigation.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 1/8/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 2/8/07 and 3/807 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when

directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 1/8/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 1/8/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge